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1299 PENNSYLVANIA AVE., NW  
WASHINGTON, DC 20004-2402  
PHONE 202.783.0800  
FAX 202.383.6610  
A LIMITED LIABILITY PARTNERSHIP

**MICHAEL J. BELL**  
PARTNER  
202.383.6500  
bellm@howrey.com

March 31, 2005

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Re: U.S. Patent Application Serial No. 09/815,589 ✓  
Filed: March 23, 2001 Confirmation No. 7446  
For: **Hedging Exchange Trading Of Mutual Funds Or  
Other Portfolio Basket Products**  
Inventor: G. Gastineau, *et al.*  
Our Ref: 00322.0007.CNUS01

Sir:

Applicant submits the following documents for appropriate action by the U.S. Patent and Trademark Office:

1. Information Disclosure Statement (4 pages);
2. PTO Form SB/08a (3 pages); and
3. Return postcard.

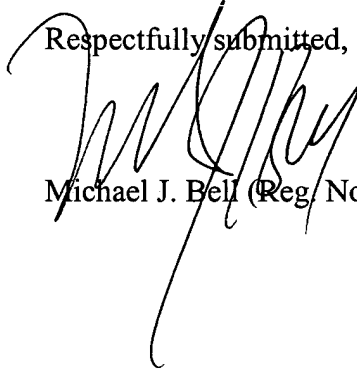
It is respectfully requested that the attached postcard be stamped with the date of filing of these documents, and that it be returned to our courier.

The U.S. Patent and Trademark Office is hereby authorized to charge any fee deficiency, or credit any overpayment, to **Deposit Account No. 08-3038**. If extensions of time under 37 C.F.R. § 1.136 other than those otherwise provided for herewith are required to prevent abandonment of the present patent application, then such extensions of time are hereby

Commissioner for Patents  
March 30, 2005  
Page 2

petitioned, and any fees therefore are hereby authorized to be charged to our Deposit Account No. 08-3038, referencing the above docket number. *A duplicate copy of this letter is enclosed.*

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Michael J. Bell', is written over the typed name. The signature is fluid and cursive.

Michael J. Bell (Reg. No. 39,604)

Enclosures



THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

Gastineau, *et al.*

Application No.: 09/815,589

Filed: March 23, 2001

For: **Hedging Exchange Trading Of Mutual  
Funds Or Other Portfolio Basket  
Products**

Confirmation No.: 7446

Art Unit: *To be assigned*

Examiner: *To be assigned*

Atty. Docket: 00322.0007.CNUS01

**Information Disclosure Statement**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

Listed on accompanying Form PTO/SB/08a are documents that may be considered material to the examination of this application, in compliance with the duty of disclosure requirements of 37 C.F.R. §§ 1.56, 1.97 and 1.98.

Where the publication date of a listed document does not provide a month of publication, the year of publication of the listed document is sufficiently earlier than the effective U.S. filing date and any foreign priority date so that the month of publication is not in issue. Applicants have listed publication dates on the attached PTO/SB/08a based on information presently available to the undersigned. However, the listed publication dates should not be construed as an admission that the information was actually published on the date indicated.

Applicants reserve the right to establish the patentability of the claimed invention over any of the information provided herewith, and/or to prove that this information may not be prior art, and/or to prove that this information may not be enabling for the teachings purportedly offered.

This statement should not be construed as a representation that a search has been made, or that information more material to the examination of the present patent application does not exist. The Examiner is specifically requested not to rely solely on the material submitted

by or submitted to the U.S. Patent and Trademark Office in a prior application relied on under 35 U.S.C. § 120. 1138 OG 37, 38 (May 19, 1992).

Applicants have checked the appropriate boxes below.

- ☒ 1. This Information Disclosure Statement is being filed within three months of the U.S. filing date OR before the mailing date of a first Office Action on the merits. No statement under 37 C.F.R. § 1.97(e) or fee is required, or
- ☐ 2. This Information Disclosure Statement is being filed more than three months after the U.S. filing date AND after the mailing date of the first Office Action on the merits, but before the mailing date of a Final Rejection or Notice of Allowance, or action that otherwise closes prosecution in the application, and
- ☐ a. I hereby state that each item of information contained in this Information Disclosure Statement was cited in a communication from a foreign patent office in a counterpart foreign application not more than three months prior to the filing of this Information Disclosure Statement. 37 C.F.R. § 1.97(e)(1), or
- ☐ b. I hereby state that no item of information in this Information Disclosure Statement was cited in a communication from a foreign patent office in a counterpart foreign application, and, to my knowledge after making reasonable inquiry, no item of information contained in this Information Disclosure Statement was known to any individual designated in 37 C.F.R. § 1.56(c) more than three months prior to the filing of this Information Disclosure Statement. 37 C.F.R. § 1.97(e)(2), or
- ☐ c. Attached is our Check No. \_\_\_\_\_ in the amount of \$180.00 in payment of the fee under 37 C.F.R. § 1.17(p).
- ☐ 3. This Information Disclosure Statement is being filed more than three months after the U.S. filing date and after the mailing date of a Final Rejection or Notice of Allowance, but on or before payment of the Issue Fee. Attached is our Check No. \_\_\_\_\_ in the amount of \$ \_\_\_\_\_ in payment of the fee under 37 C.F.R. § 1.17(i), and

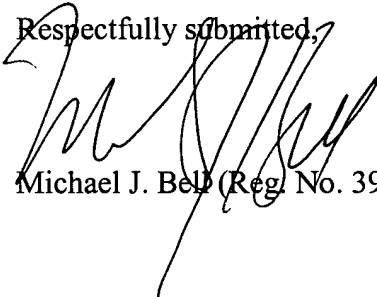
- ☐ a. I hereby state that each item of information contained in this Information Disclosure Statement was cited in a communication from a foreign patent office in a counterpart foreign application not more than three months prior to the filing of this Information Disclosure Statement. 37 C.F.R. § 1.97(e)(1), or
- ☐ b. I hereby state that no item of information in this Information Disclosure Statement was cited in a communication from a foreign patent office in a counterpart foreign application, and, to my knowledge after making reasonable inquiry, no item of information contained in this Information Disclosure Statement was known to any individual designated in 37 C.F.R. § 1.56(c) more than three months prior to the filing of this Information Disclosure Statement. 37 C.F.R. § 1.97(e)(2).
- ☐ 4. Relevance of the non-English language document(s) is discussed in the present specification.
- ☐ 5. The document(s) was/were cited in a corresponding foreign application. An English language version of the foreign search report is attached for the Examiner's information.
- ☐ 6. A concise explanation of the relevance of the non-English language document(s) appears below:
- ☒ 7. The Examiner's attention is directed to co-pending U.S. Patent Application No. 09/536,663, filed March 27, 2000, U.S. Patent Application No. 10/174,505, filed June 17, 2002, U.S. Patent Application No. 10/123,779, filed April 16, 2002, U.S. and U.S. Patent Application No. 09/536,258, filed March 27, 2000, and U.S. Patent Application No. 10/753,069, filed January 8, 2004, which are directed to related technical subject matter. The identification of these U.S. Patent Applications is not to be construed as a waiver of secrecy as to those applications now or upon issuance of the present application as a patent. The Examiner is respectfully requested to consider the cited applications and the art cited therein during examination.

- ☒ 8. Copies of the documents were cited by or submitted to the Office in Application No. 09/536,258 filed March 27, 2000, which is relied upon for an earlier filing date under 35 U.S.C. § 120. Thus, copies of these documents are not attached. 37 C.F.R. § 1.98(d).

It is respectfully requested that the Examiner initial and return a copy of the enclosed PTO-1449, and to indicate in the official file wrapper of this patent application that the documents have been considered.

The U.S. Patent and Trademark Office is hereby authorized to charge any fee deficiency, or credit any overpayment, to our Deposit Account No. 08-3038 referencing docket number 00322.0007.CNUS01.

Respectfully submitted,

  
Michael J. Bell (Reg. No. 39,604)

Date: 8/8/05

HOWREY SIMON ARNOLD & WHITE, LLP  
2941 Fairview Park Drive, Box 7  
Falls Church, VA 22042  
(202) 783-0800  
(703) 336-6950 (fax)

MAR 31 2005

PTO/SB/08a (08-03)

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**INFORMATION DISCLOSURE  
STATEMENT BY APPLICANT**

(Use as many sheets as necessary)

Sheet 1 of 3

**Complete if Known**

Application Number	09/815,589
Filing Date	March 23, 2001
First Named Inventor	Gastineau
Art Unit	TBA
Examiner Name	TBA
Attorney Docket Number	00322.0007.CNUS01

**U. S. PATENT DOCUMENTS**

Examiner Initials*	Cite No. <sup>1</sup>	Document Number	Publication Date MM-DD-YYYY	Name of Patentee or Applicant of Cited Document	Pages, Columns, Lines, Where Relevant Passages or Relevant Figures Appear
		Number-Kind Code <sup>2</sup> (if known)			
	1	us-6,377,907 B1	04-23-2002	Waclawski	
	2	us-6,047,270	04-04-2000	Joao	
	3	us-6,606,615	08-12-2003	Jennings et al.	
	4	us-6,061,662	05-09-2000	Makivic	
	5	us-6,061,663	05-09-2000	Bloom	
	6	us-6,088,685	07-11-2000	Kiron	
	7	us-2002/0091616	07-11-2002	Bloom	
	8	us-2002/0184126	12-05-2002	McIntyre, Jr	
	9	us-2003/0126062	07-03-2003	Gilbert	
	10	us-2004/0044505	03-04-2004	Horwitz	
	11	us-2004/0049448	03-11-2004	Glickman	
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**FOREIGN PATENT DOCUMENTS**

Examiner Initials*	Cite No. <sup>1</sup>	Foreign Patent Document	Publication Date MM-DD-YYYY	Name of Patentee or Applicant of Cited Document	Pages, Columns, Lines, Where Relevant Passages or Relevant Figures Appear	T <sup>6</sup>
		Country Code <sup>3</sup> Number <sup>4</sup> Kind Code <sup>5</sup> (if known)				
	12	WO 02/084435 A2	10-24-2002	Kholer		

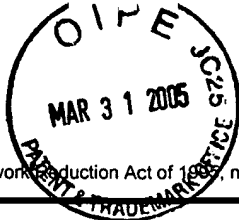
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SignatureDate  
Considered

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This collection of information is required by 37 CFR 1.97 and 1.98. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 2 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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STATEMENT BY APPLICANT**

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**Complete if Known**

Application Number	09/815,589
Filing Date	March 23, 2001
First Named Inventor	Gastineau
Art Unit	TBA
Examiner Name	TBA
Attorney Docket Number	00322.0007.CNUS01

Sheet 2 of 3

**NON PATENT LITERATURE DOCUMENTS**

Examiner Initials*	Cite No. <sup>1</sup>	Include name of the author (in CAPITAL LETTERS), title of the article (when appropriate), title of the item (book, magazine, journal, serial, symposium, catalog, etc.), date, page(s), volume-issue number(s), publisher, city and/or country where published.	T <sup>2</sup>
	13	B. Rosenberg "Extra-Market Components of Covariance Among Security Prices" Research Program in Finance Working Paper RPF-013, 1-45, 1973	
	14	B. Rosenberg "Common Factors in Security Returns: Microeconomic Determinants and Macroeconomic Correlates", Seminar on the Analysis of Security Prices, May 13-14, 1976	
	15	MAR Headlines ; In Business "Mopex ups ante in ETF patent challenge" Last visited on April 25, 2002	
	16	Random -bits] Gregory Aharonian on Open end mutual fund securitization process patent; pages 1-4; last visited April 25, 2002	
	17	Gregg Greenberg "What's Next for ETFs?" , The Street.com, pages 1-2	
	18	T. Laswing "Active ETF Inching Toward Reality" Ignites.com, June 10, 2004	
	19	T. Bernard " Getting Personal: Active ETF Filing May Be On Horizon" Dow Jones News Service, June 23, 2004	
	20	I. Clary "Actively Managed ETFs on Horizon" Securities Industry News, June 28, 2004, Copyright (c) Thomson Media Inc.	
	21	U.S. Securities and Exchange Commission, " SEC Concept Release: Actively Managed Exchange -Traded Funds" <a href="http://www.sec.gov/rules/concept/ic-25258.htm">http://www.sec.gov/rules/concept/ic-25258.htm</a> ; last visited on 08/24/2004	
	22	Ameritrade; Ameritrade Exchange -Traded Funds-ETF Center: Education; " Explore the essentials of ETFs"; pages 1-4, 2004	

Examiner  
SignatureDate  
Considered

\*EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.

<sup>1</sup> Applicant's unique citation designation number (optional). 2 Applicant is to place a check mark here if English language Translation is attached.

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<i>Application Number</i>	09/815,589
<i>Filing Date</i>	March 23, 2001
<i>First Named Inventor</i>	Gastineau
<i>Art Unit</i>	TBA
<i>Examiner Name</i>	TBA
<i>Attorney Docket Number</i>	00322.0007.CPUS01

Sheet	3	of	3
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[illegible]

Examiner  
Signature \_\_\_\_\_

Date  
Considered

<sup>1</sup> Applicant's unique citation designation number (optional). <sup>2</sup> Applicant is to place a check mark here if English language Translation is attached.

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